

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-142477

September 29, 1960

Dear Mr. Secretary:

On September 13, 1960, your Administrative Assistant Secretary requested our decision whether your department was authorized under sections 1 and 7 of the Administrative Expenses Act of 1946, 5 U.S.C. 73b-1, and b-3, to pay the return transportation expenses of the immediate family of an employee who dies while stationed in Alaska or Hawaii. If that question were answered in the affirmative your Administrative Assistant Secretary also asks whether it would be permissible to pay the expenses of return transportation of the remains of the deceased employee under the authority of sections 1 and 7 of that act.

Section 1 of the Administrative Expenses Act of 1946 is, in part, as follows (quoting from 5 U.S.C. 73b-1):

"* * * And provided further, That expenses of travel and transportation in connection with the transfer of officers and employees to posts of duty outside the continental limits of the United States and return therefrom shall be allowed to the same extent and subject to the same limitations prescribed for new appointees under section 73b-3 of this title."

Section 7 of that act is, in part, as follows (quoting from 5 U.S.C. 73b-3):

"(a) Appropriations for the departments shall be available, in accordance with regulations prescribed by the President, for expenses of travel of new appointees, expenses of transportation of their immediate families and expenses of transportation of their household goods and personal effects from places of actual residence at time of appointment to places of employment outside continental United States, and for such expenses on return of employees from their post of duty outside continental United States to the places of their actual residence at time of assignment to duty outside the United States: Provided, That such expenses of travel and transportation to posts of duty outside the continental United States shall not be allowed unless and until the person selected for appointment shall agree in writing to remain in the Government service for twelve months following his appointment, unless separated for reasons beyond his control and acceptable to the department or agency concerned and in case of violation of such agreement any

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moneys expended by the United States on account of such travel and transportation shall be recoverable from the individual concerned as a debt due the United States: And provided further, That expenses of return travel and transportation upon separation from the service shall be allowed whether such separation is for the purposes of the Government or for personal convenience, but shall not be allowed unless such persons selected for appointment outside the continental United States shall have served a minimum period of not less than one nor more than three years prescribed in advance by the head of the department or agency concerned or unless separation is for reasons beyond the control of the individual and acceptable to the department or agency concerned: * * *."

There is no express language in either section 1 or section 7 of the act authorizing the transportation of the remains of an employee under any circumstance. We think it significant that at the time of enactment of the Administrative Expenses Act of 1946 permanent legislation was in existence--the act of July 8, 1940, 5 U.S.C. 103a--specifically dealing with the matter of transporting the remains of deceased employees and prescribing the conditions under which the Government would pay for such transportation. Thus, at the time of enactment of the 1946 statute, there was no necessity for including provisions in that act governing the transportation of the remains of deceased employees. Hence, in the absence of an express provision in that act to the contrary, we are of the view that the authority for the transportation of an employee and his immediate family granted by the 1946 act applies only to living individuals and that the 1940 statute constitutes the exclusive statutory authority for the transportation of remains. It follows, therefore, that the transportation of the remains of a deceased employee who dies while stationed in Alaska or Hawaii may not be transported under the authority of either section 1 or section 7 of the Administrative Expenses Act of 1946.

However, the transportation of the immediate family of an employee who dies while stationed in Alaska or Hawaii is another matter. If at the time of his death, the employee had completed his agreed period of service in Alaska or Hawaii, the return of his immediate family to the actual place of residence, in an otherwise proper case, would be authorized under the Administrative Expenses Act of 1946, since the right to such transportation would have vested prior to the employee's death. Moreover, in a case when the agreed period of service had not been completed at the time of the employee's death, ordinarily his death would constitute a separation for "reasons beyond his control" and if such reasons are "acceptable to the department or agency concerned" return

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transportation of the immediate family to the place of actual residence would be authorized.

Your questions are answered accordingly

Sincerely yours,

Joseph Campbell

Comptroller General
of the United States

The Honorable
The Secretary of the Interior